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DOUBLE TAXATION

UNJUST AND INEXPEDIENT.

BY

RICHARD H. DANA.

AND EXTRACTS FROM ARGUMENT OF

EX-GOV. LONG,

BEFORE THE COMMITTEE ON TAXATION OF THE MASSACHUSETTS LEGISLATURE.

BOSTON:
PRESS OF H. G. COLLINS.
1892.

SUMMARY.

The law taxing an owner in this State on his property situated and taxed elsewhere imposes double taxation, and is unequal, unjust, unwise, contrary to the obvious spirit of the Constitution, and ought to be repealed.

An owner, in this State, of a cow is taxed once, if the cow is in this State, but if she is in New Hampshire, for example, he is taxed twice for the same cow, once in New Hampshire and once here.

An owner in this State of a share of a corporation chartered here pays one tax through the corporation, and his share is free. If he owns a share in a corporation chartered elsewhere, he pays one tax through the corporation, and *another* tax on his share here. Shares in home corporations are not taxed to the owners, while shares in foreign corporations are. (pp. 5, 6.)

A tax on a share is a tax on the property of which the certificate of stock is only evidence of title. It is like a tax on the title deed for the full value of the land.

Such a tax is unjust, and its injustice furnishes an excuse for tax dodging. (p. 6.)

It is unconstitutional as taxing unequally, as taxing property not "within the Commonwealth," and in some cases as taxing interstate commerce. (pp. 14–16.)

Such a tax is uncertain. As a rule, stock in foreign corporations escapes taxation. Experience, not only here but in other countries, has proved that the attempt to tax property, real or personal, which is actually in another state or country, is as unsuccessful as it is unjust. It is impossible to frame laws adequate to insure the collection of such taxes. (pp. 7–14.)

By the Body of Liberties 1641, property in foreign parts was not taxed to its owner here, and that was the law till the Revised Statutes of 1836, and after that the law was so construed as not to be burdensome till 1866. (pp. 16–18.)

Massachusetts corporations pay no tax on their property out of the State, while Massachusetts citizens are compelled to. (pp. 17, 18.)

The States of Maine, Vermont, Rhode Island, Connecticut, New York, New Jersey, West Virginia, South Carolina, Ohio, Illinois, Missouri, Kansas, and for all practical purposes Pennsylvania have

no such double tax on personal property out of those States. The States of Vermont, Rhode Island, Connecticut, New York, New Jersey, and for all practical purposes Pennsylvania have no such double tax on shares of foreign corporations. (p. 18.)

The present law is unwise. It tends to keep rich men from coming to the State, and to drive those here either out of the State or to towns which do not tax them fully. (pp. 18–20 and 25, 26.)

It is not a question of relieving the rich for the benefit of the poor. The double tax is not a double tax on *all* the property of *all* rich persons. Many of the richest are subject to no double tax at all. It is a double tax on one kind of property only, whether in the hands of richer or poorer, and the tax is collected chiefly from the owners of small amounts. (p. 20.)

The amount of this double tax actually collected is small. If the attempt to collect it is given up, as proposed, the increase, if any, in the rate of taxation would be small, even if no more property came into the State. But when this threat of imposing taxes here, which other States do not impose, is withdrawn, people with property from other States, especially from the West, will take up their residence here. The advantages of this State as a place of residence are unequalled. (pp. 20–26.)

Under a fairer and juster system, there will be less evasion.

In farming Massachusetts cannot compete with the West in grain, corn, etc. The Massachusetts farmer must depend upon furnishing milk, fresh vegetables, etc., to the people near him. Any law keeping away or driving away a rich man injures the farmer, while the proposed law, by bringing rich men into the State, helps the farmers many times more than the difference in tax. (pp. 23–26.)

It is not a question of theory; it is one of hard facts. We must meet the competition of Maine, Connecticut, New York, and the other States in this respect.

Massachusetts has few natural resources. She has not a rich soil, and no mines of coal or metals. Her prosperity depends on the thrift and good judgment of her people. Our laws should encourage paying investments, which bring large returns to the State. (pp. 25, 26.)

It has been proposed to enforce this unjust tax by compelling foreign corporations with offices in the State to file lists of stockholders. (p. 26.)

All methods of enforcing, even the most just laws, are not expedient, and the proposed method would be inexpedient. (p. 27.)

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The proposed method would fail of its object. It is not necessary to register transfers of shares with the corporation in order to have full legal title and all the benefits of ownership. Even if registration is desired, it could be made in the name of agents or attorneys residing in other States. (pp. 27, 28.)

If the proposed method were effective, it would drive some stockholders out of the State, and prevent others from coming in. (p. 28.)

It would drive large foreign corporations out of the State. Many of them hire large offices, numerous clerks, and have large bank deposits. They have no *business* reason for having their offices in Boston. All or nearly all their business is out of the State, and they are here from local pride and sentiment only. There are strong business reasons for moving their offices from here as it is, and if their shareholders, in order to escape an unjust tax, should urge them to leave the State, they would do so. (pp. 29, 30.)

DOUBLE TAXATION

UNJUST AND INEXPEDIENT.

The shares of foreign corporations, when the corporations are legally taxed where situated, should be relieved from taxation here.

STATEMENT OF THE CASE.

The tax in this State on stock in foreign corporations is unjust in principle, unconstitutional, and not for the best interests of the State.

Massachusetts corporations are taxed on their real estate, machinery, and franchise, but there is no further tax to the owner of the shares. Foreign corporations are also taxed where situated on their real estate, machinery and franchise, and *in addition to that*, we tax the owners of the shares, who happen to reside in this State, on the full value of their interest in the same property, under the guise of taxing their certificates of stock. This is a clear case of double taxation. We might as well first tax the real estate, and then tax the deeds over again to the full value of the property of which the deeds are the certificates of title. Corporations, indeed, are nothing more than partnerships with limited liability and under certain statutory regulations. Would it be right to tax partnership property, and then tax each partner over again on his partnership agreement, assessed at the full value of the same partnership property? Indeed, the case would be very clear, were the whole of the United States one great Massachusetts. Then the taxing power would not think

of taxing the Eastern owner of shares of a Western corporation for the value of those shares in addition to taxing all the real and personal property and the franchise of the corporation; but our great country being divided up into various States, each with the power to establish corporations, we undertake in Massachusetts to tax the shares of an Illinois corporation, though we pay nothing for the protection of that company's property, and though the State, which is at the expense of guarding that property, and whose society gives it value, has taxed it fully already. Such double taxation is indeed unjust, and has judicially been declared "extremely hard and unjust" by the highest courts of the largest States. (Commonwealth *v.* Standard Oil, 101 Pa. St. 119; People *v.* Home Ins. Co., 92 N. Y. 328.)

So unjust are our laws that tax dodging has become almost respectable. Between the years 1869 and 1874, seventeen millions of taxed personal property are known to have left Boston to escape taxation. It is submitted that the reason tax dodging is not more condemned is because a part of the tax is an unjust and unfair double tax. Let us take away the just excuse for evading taxes.

THE PROPOSED BILL.

Be it enacted, etc.

SECT. 1. Section four of chapter 11 of the Public Statutes is hereby amended by adding to the end thereof the following words: and provided, that no taxes shall be assessed on personal property, or shares in the capital stock of corporations, which property and corporations are situated out of this Commonwealth and are legally assessed for taxes where situated.

SECT. 2. This act shall take effect upon its passage.

THE EFFECT OF THIS BILL.

The effect of this bill is only to relieve the shares of such foreign corporations and such personal property as are actually taxed where situated. The shares of any

corporation relieved from assessment, as is the case with some Maine corporations, for example, to encourage their locating in that State, would not, by this bill, be free from taxation here. Personal property sent out of Massachusetts to avoid taxation would not by this bill relieve its owner here from taxation. He is only relieved in case his property is actually assessed where situated.

THE PRESENT SYSTEM UNWISE.

Equality, certainty, and economy in collection are three fundamental principles of sound taxation. Taxing the shares of corporations whose property is already fully taxed, is certainly not equal. It is an open, palpable, and direct double tax.

Besides being unequal, it is uncertain. So little is reached that it does not affect the market value of the shares. They sell for the same price here where they are taxable, as in New York where they are not. The assessors of the city of Boston found only $7,804,100 in 1891. (Annual Report Assessing Department of Boston, 1891, p. 14.) Fully one third of this was got from trust estates whose records were in the Probate Court. Only about one fourth of the personal property assessed is specifically ascertained. Three quarters are got at by guesswork under the dooming process. Of this "guessed at" amount of personal property, the assessors further guess that very nearly $30,000,000 is shares in corporations not chartered by Massachusetts, or foreign corporations, as they are commonly called.

A director of a large Western railroad told the committee that more than half the stock of the road was owned in Boston. That amount alone is more than all the estimated amount of foreign corporation stock, according to the assessors. One hundred men together in Boston are known to own more than this estimated amount of foreign stock. (An Exposition of Double Taxation, by Geo. G. Crocker, p. 9.) Good authorities have put the total value of shares of foreign corporations owned in Massa-

chusetts at one thousand million dollars. The total *assessed* value of the same, including both that actually found and that estimated, was, in 1889, $70,000,000. The total actually found was probably $15,000,000. (Aggregates of Polls, Property, and Taxes, compiled by Secretary of Commonwealth, 1889, p. 59.) These "estimates" are so unreliable that they have not been published in the reports since 1889.

DIFFICULTY OF REACHING ALL INTANGIBLE PROPERTY.

It has always been very difficult to find intangible personal property or evidences of ownership for purposes of taxation. The Romans used to resort to torture. (Prof. Seligman, General Property Tax, p. 46; Report Commissioners, David A. Wells and others, New York, 1871, p. 53, p. 30, in Harper's Ed.) The greater the business activity of a community, the greater is the variety in form of the evidences of ownership of real and personal property. It is easy for the assessors to find the property itself. It is difficult for them to find the evidences of ownership of that property, especially when their object is to impose a double tax. The difficulty becomes so great that the effort is given up in most countries, and a return is made to taxing real estate and tangible property for the most part. The United States is the only civilized country in the world that is still trying to tax both the property itself and its shadow. (Seligman, General Property Tax, pp. 43–56, 1890; Ely, Taxation in American States, 1888, and David A. Wells, Report, 1871.)

THE PENNSYLVANIA SYSTEM.

Pennsylvania has abandoned double taxation for town, city, and county purposes. For those purposes the taxation is limited to real estate, horses, and cattle. For purposes of State taxation alone, carriages to hire, and mortgages, shares of foreign corporations, bonds, and other

evidences of ownership are assessed. The rate for the State tax is $4.00 on a thousand, and the chief class of evidences of ownership actually reached is mortgages on real estate. By a recent law compelling registers of deeds to notify the assessors of taxes of all recorded mortgages, and by a new dooming law somewhat like ours, the amount assessed has greatly increased. What the effect of this will be on business is yet to be seen. As to shares of foreign corporations, the returns are not made so as to separate them, but the assessor of Philadelphia says that not much of this class of property is got at. Many business men are under the impression that it is not taxable. The local assessors have to find this property for the benefit of the State. They have all the odium of seeking it, and their locality gets no direct benefit from what they find. In Philadelphia, in 1891, the real estate was assessed at a value of $710,600,000, while the personal was assessed at $285,700,000, or just 40 per cent of the real. In 1869, when the Massachusetts dooming law was first strongly enforced, the personal property reached 66 per cent of the real as assessed.

THE EXPERIENCE IN MASSACHUSETTS.

In Massachusetts we have employed the dooming process longer than in any state. It has been ably administered by those who thoroughly believed in its efficacy, and when it was first put in operation we reached a larger percentage of personal property than has ever been reached in any other state. By the dooming process, whoever fails to make sworn returns of taxable property has his property estimated or guessed at by the assessors, and he cannot get any abatement except of what is in excess of 50 per cent above his proper tax. The system is to keep on increasing the estimated assessment till the victim "squeals," as the assessors call it, that is, makes a return, or else goes to some town where the assessors are more lenient, or leaves the State altogether.

What have been the results in Massachusetts? In order to understand the situation, it must be remembered that

the value of real estate depends upon the amount of personal property on and about it. The richest farm would be of very little value but for the horses, ploughs, cattle, etc., on it; and its products would have but little value if there were not money or other valuables offered in exchange for them. The most barren and rocky ground which happens to be in the midst of vast accumulations of wealth is valued at hundreds of dollars a square foot. A building in Wall Street, New York, where there is the most money and securities collected together of any one place in this country, has a great value. The same building on an Indian agency would have a value very little above a few wigwams. If placed in the most crowded parts of China, its value would still be far less than in Wall Street, though the number of people about it might be greater than in New York. The reason is that the people in China have less personal property than those in New York. What the proportion of the value of personal is to that of real estate it is hard to say exactly. If we consider *tangible* personal property, it is probably about equal in value to the real estate near it. (Report of David A. Wells, New York, 1871, p. 34; Address on Taxation, by Mr. Thomas Hills, Chairman of the Assessors of Boston, Jan. 20, 1890, pp. 2–4.) Of course the apparent amount of property is largely increased by any system of taxation which taxes the shadows of things as well as the things themselves. (See Dudley Baxter, an English economist; Ely on Taxation in American States, p. 143; Report on Taxation, Boston Executive Business Association, by Jonathan A. Lane and others, 1889.)

In Massachusetts, in 1862, the personalty was assessed at $309,000,000,* to $552,000,000 of assessed real estate, or 56 per cent of the latter. In 1891 the personalty was $556,000,000,* to $1,679,000,000 of real estate, or 33 1-3 per cent. That is, the personal property assessed for taxes has increased only $247,000,000, while the real estate has increased $1,127,000,000, or nearly five times as much in

* Including resident bank stock.

the same time. This simply means that more and more personal property escapes. The real estate *cannot* have increased in value without an increase in personal wealth with which to increase the demand for it. Real estate does not make a demand for itself. The very rents of real estate come from personal property, in the last resort. Even the rent a farmer pays comes from the personal property he raises on the farm.

In 1868, Mr. Thomas Hills was made chairman of the Boston Board of Assessors. He executed the dooming law with a vigor never seen before, and the other assessors followed his example. In 1869 the value of the assessed personal estate rose to $553,000,000, from $469,800,000 the year before. (Aggregates of Polls, etc., 1891, p. 58.) This was a veritable triumph. A like triumph has followed the first year or so of dooming laws in other States. But what is the result of 21 years of this vigorous policy? In 1890 the value of the assessed personal property was the same as in 1869 (Aggregates of Polls, etc., 1891, p. 58), though it has been a period of enormous increase of wealth of this very kind in the State. On the other hand, real estate has very nearly doubled in value in the same time, although real estate has gone through the greatest depression for the longest period (1874–1882) ever known in modern history, and we have had the great fires in Boston and Lynn in the interval.

COMMONWEALTH OF MASSACHUSETTS.

	Value of assessed personal estate.	Value of assessed real estate.
1869	$553,000,000*	$838,000,000*
1890	553,000,000	1,600,000,000
Increase from 1869		$762,000,000
1891	$566,500,000	$1,678,500,000
Increase from 1869	$13,500,000	$840,500,000

THE EXPERIENCE IN BOSTON.

The experience in Boston is equally startling and instructive. Here Mr. Hills' policy has had full sway. No one doubts Mr. Hills' integrity, energy, industry, and

* The values in 1869 are taken on a currency basis, but as *both* personal and real estate are on the *same* basis *the comparison* between the growth of the two holds good.

courage in pursuing his policy. The dooming law under him has done all it is capable of doing.

In 1869, the first year Mr. Hills' work was in full operation, the value of Boston's assessed personal estate was $217,500,000. (Aggregates of Polls, etc., 1869, p. 20.) In 1891, or after 22 years' trial, the assessed personal is only $204,800,000, or has fallen off by $13,000,000. (Report Assessing Department, 1891, p. 21.) During the same period the value of real estate, as assessed, rose from $332,000,000 to $650,000,000, or very nearly doubled.

It may be urged in explanation that in consequence of the law of 1881 exempting mortgages on real estate, the value of personal property was reduced. It was reduced, but by how much? In the State at large (including Boston) by $3,500,000 (Aggregates of Polls, etc., 1891, p. 58), and in the city of Boston it was reduced by nearly $5,500,000. Mr. Hills thinks the loss was really greater, "as large gains were made on other items of personal estate" (Report Assessing Department, 1891, p. 21), but it must be noted that these "large gains" show in no other years, for both before and since 1881–2 there is a continuous falling-off in the value of assessed personal estate in Boston, and but very slight gains in the State, while on the other hand it must be remembered that between 1869 and 1891, viz., in 1874, Charlestown, West Roxbury, and Brighton had, by their annexation the year before, added $17,500,000 to the assessed personal property of Boston!! (Report Assessing Department, 1891, p. 21, note 2.) From 1872 to 1891 the taxed personal estate fell in value $35,000,000 in Boston, notwithstanding these annexation gains, while real estate increased $207,000,000. To eliminate all questions of annexation and exemption of real-estate mortgages, let us compare the ten years from 1882 to 1891 inclusive. In the State the value of assessed personal property increased $72,000,000 and the real estate $479,000,000, or nearly seven times as much. In the city of Boston the personal estate has remained stationary ($204,700,000 in 1882, $204,831,000 in 1891), while the real-estate valuation has increased $182,500,000. It is evident that intangible personal prop-

erty has been successfully concealed or its owners driven away, or both.

CITY OF BOSTON.

	Value of assessed personal Estate.	Value of assessed real Estate.
1869	$217,500,000	$332,000,000
1881	210,200,000*	455,400,000*
1882	204,700,000	467,700,000
1891	204,800,000	650,200,000

It is no wonder that Seligman, Ely, and Wells, the chief American authorities on local taxation, agree that every method of reaching intangible personal property is a failure in America now, as it has proved to be elsewhere in past history.

If intangible personal property so largely escapes taxation, how much more must that portion of it escape, on which the taxation is considered so unjust as is the double tax on the stock of foreign corporations!

UNCERTAINTY OF THE TAX.

When so much of the stock of foreign corporations escapes taxation, it is a mere chance if the owner of it has to pay a tax or not. It is a matter of great uncertainty. He pays for this property at a price based on its pratically escaping taxation. If he is taxed on it, he feels mulct like the farmers in the Middle Ages on whom some baron had happened to descend. To be just and fair, a tax should be certain, so that the market value of the property may be settled on the basis of taxation. Otherwise, one man makes more out of the investment than he ought, and another man less, while the temptation to perjury in the sworn statements is greatly increased.† About one hundred years ago, Adam Smith said, "The certainty of what each individual ought to pay is, in taxation, a matter of so great importance, that a very considerable degree of inequality, it appears, I believe,

* In 1873, Charlestown, West Roxbury, and Brighton were annexed, adding $17,500,000 personal and $54,235,000 real estate as valued for assessment.

† Address of Mr. Thomas Hills, 1891, pp. 6–9.

from the experience of all nations, is not near so great an evil as a very small degree of uncertainty." This opinion has been quoted with approval by the political economists ever since.

UNCONSTITUTIONALITY OF THE TAX.

The taxation here of shares in foreign corporations is in violation of the spirit of our Constitution for two, and perhaps three, reasons.

First, because it is not "proportional and reasonable" nor "equal," as required by the Constitution. (Constitution of Massachusetts, Part Second, Chap. 1, Sect. 1, Art. IV. N. B. This paragraph of the Constitution is construed as restrictive. See 118 Mass. 386, and cases there cited.)

Second, because by the same part of the Constitution, the taxes can be levied only upon "the inhabitants of and persons resident and estates *lying within the said Commonwealth*," and "duties and excises upon any produce, goods, wares, merchandise, and commodities whatsoever *brought into, produced, manufactured, or being within the same.*"

The only argument by which shares in foreign corporations can be said to be within the State is in accordance with the legal fiction that personal property follows the owner; *mobilia sequuntur personam.* That is a convenient fiction for certain purposes, but for other purposes it has been repudiated by the Supreme Judicial Court of Massachusetts and by the Supreme Court of the United States. (See Lawrence *v.* Batcheller, 131 Mass. 504; Cunningham *v.* Butler, 142 Mass. 47; Proctor *v.* Bank of Republic, 152 Mass. 223; Green *v.* Van Buskirk, 5 Wall. 307, and 7 Wall. 139; Cole *v.* Cunningham, 133 U. S. 107.)

As applied to taxation, it has been held by the highest court of New York that the *situs* of personal property is where it actually is (Hoyt *v.* Commissioners, 23 N. Y. 224); and as to shares in foreign corporations the case of Trowbridge *v.* Commissioners, 4 Hun, 595, decides that "*stock certificates* are not themselves property, but are

evidences of the rights" in property, and that the property of foreign corporations is not "within the State" of New York even when the owner of the shares is within the State, with the shares in his possession. By the law of New York only property "within the State" is taxable, and this case decided that the shares of foreign corporations were not taxable. This view of the law seems to be sustained in the recent case of Penn. *v.* Pullman in the Supreme Court of the United States, 141 U. S. 18, at p. 22. Our Massachusetts statutes are inconsistent. They declare that personal property follows the owner when the owner is in the State, but that it does not follow the owner when he is out of this State. The owner of a share in a Western railroad, or of a cow on a Western farm, is taxed on them, if he lives here, on the theory that the property follows him here; but the New York owner of a share in a Massachusetts railroad, or of a cow on a Massachusetts farm, still has his interest in the road or in the cow taxed in Massachusetts, on the theory that they do *not* follow him. Both theories cannot be correct.

Shares themselves are not property. They are only evidences of title. In the case of Gleason *v.* McKay, the Supreme Judicial Court of Massachusetts, speaking of shares of a corporation in connection with taxation, say, "Such shares, *if they can be said to be property*" (134 Mass. 424). There is no value in a certificate of stock apart from the value of the property of which the certificate is the evidence of a share of title. If the property is valuable, the certificate is valuable. If the property becomes worthless, the certificate is worthless. There is no case in Massachusetts where the constitutionality of this particular tax has been raised. So far as the *chief* authorities go, then, this tax is unconstitutional, on the second ground.

The Massachusetts statutes, however, are not content to leave it that personal property "within" the State shall be taxed, and then leave the courts to construe whether shares of foreign corporations owned by residents here are property "within" the State or not. On the contrary, by

Public Statutes, Chap. 11, Sect. 4, it is expressly declared that "stocks in turnpikes, bridges, and moneyed corporations *within or without the State*" are subject to taxation.

The third ground of unconstitutionality applies only to shares of stock in the foreign coporations engaged in interstate commerce. A tax on the shares is a tax on the corporations, and is a way often resorted to for taxing corporations. (Commonwealth *v.* Hamilton, 12 Allen, 298.) By the reasoning of the U. S. Supreme Court in the case of Penn. *v.* Pullman, 141 U. S. 18, it seems that it is contrary to the Constitution of the United States for a state to tax any corporation engaged in interstate commerce, except for tangible property of the corporation actually and bodily within the domain of that State.

HISTORY OF THE LAW IN MASSACHUSETTS.

But it may be answered, Are not the courts open to test the constitutionality of this law? The present law has a peculiar history. By the Body of Liberties of 1641, the great constitutional law of the Colonies (Colonial Laws, Ed. 1889, p. 35), it is stated in Article 13: "*No man shall be rated here for any estaite or revenue he hath in England, or in any forreine partes, till it be transported hither.*"

That seemed to be the principle till the Revised Statutes of Massachusetts, passed in 1836. The commissioners on the revision of the statutes say (note to Chap. 7, Sects. 2 and 4) that there was a doubt as to whether property was taxable when it was without the limits of the State. It had never been decided that it *was* taxable, but the commission, in order "to remove a doubt," included both real and personal property lying without the State as taxable a second time to its owners if they resided here, adding the provision relating to shares in foreign corporations just referred to above. They advised that *land* out of the State should be considered as personal property in taxing its owner here, saying: "Both descriptions of property (real and personal) are alike subject to the foreign

jurisdiction for taxation and other purposes; and although the land itself belongs to that class of property called immovable, yet the value of it is as easily transferable as the value of goods or merchandise." The Legislature, in passing the Revised Statutes, threw out the tax on foreign *land*, but left it in on foreign personal property and shares of foreign corporations. In regard to shares in foreign corporations, the commission on the statutes suggested in its report that "if, however, considerations of public policy should induce any modification of the rule, the expression in question can be dispensed with."

It is submitted that in the wholesale passage of these laws (812 pages at once) such questions of "public policy" were not properly considered.

Even when it became a law, it was not at first particularly burdensome. The great increase in manufacturing and railroad corporations was after 1850, but even up to 1866 the law was so administered as to lessen its burden. As it appears by the case of Dwight *v.* Boston, 12 Allen, 316 (1866), the assessors used to deduct from the value of the shares of foreign corporations their proportional part of the tax on real estate and machinery paid in other states. Under the pressure of the war debt, it is believed, the court decided that this practice of the assessors was not in accord with the true intent of the statutes, so from that time on, these shares have been taxed at their full market value. So it came to pass that the law had been thirty years on the statute book before it became oppressive, but as stated in the case of Portland Bank *v.* Althorp, 12 Mass. 252, long aquiescence in a law is a strong ground for holding it constitutional in case of doubt. So by the peculiar history of this law, we are led into a disadvantageous position in trying its constitutionality.

PRECEDENTS FOR CHANGING THE LAW.

In Massachusetts, while its citizens are taxable for personal property situated out of the state, its corporations are not so taxed. Life-insurance companies, both Massachusetts and foreign, doing business here, are taxed only

on the policies on the lives of residents in the State (P. S., Chap. 13, Sect. 25), and in taxing all other insurance companies the premiums received in other states are not included in the assessment of the tax when those premiums are subject to a like tax in those states (Sect. 29). Railroads having lines both in and out of the State have deducted from their valuation an amount proportional to the length of their lines lying without the Commonwealth, and in general, Massachusetts corporations are exempt for their real estate and machinery, subject to local taxation "*wherever situated*" (Sect. 40). Why should not our citizens be taxed on the same basis as corporations, and be relieved of this double tax?

By the laws of Vermont, Rhode Island, Connecticut, New York,* New Jersey, and for all practical purposes Pennsylvania, shares of foreign corporations are not taxed to residents within those States. By the laws of those States with the addition of Maine, West Virginia, South Carolina, Ohio, Illinois, Missouri, Indiana, and Kansas, all personal property situated out of the State is free from any second tax to the owner.

Thus it appears that Massachusetts is the only State, besides New Hampshire, of the rich Eastern and Middle States, that has not the law which we here propose. We and New Hampshire alone insist upon this double tax, which is unjust, unsound on grounds of political economy, and unwise for the interests of our State.

BAD EFFECT OF OUR PRESENT LAW.

By retaining our present law, we practically say that no citizen of Massachusetts can have any share in the great business concerns of the country out of our State, without being subject to a tax which no other large State imposes on its citizens.

The result of retaining our law is, that while we do not collect a large tax from this class of property, we frighten away rich men who have made their money in Western

* *Trowbridge* v. *Commissioners*, 4 Hunn, 595.

corporations, and are contemplating coming to Massachusetts to reside, attracted by the social, artistic, musical, educational, and natural advantages. The author of this pamphlet was consulted professionally by a lady owning considerable foreign stock, and who was uncertain whether to reside in Massachusetts or in Connecticut, in both of which States she had friends. On information as to the tax laws in both States, she decided to reside in Connecticut. The author of this pamphlet also knows a rich man who is contemplating moving into the State with several millions of foreign stock. If he comes, he will not be domiciled in Boston, but in some town where the assessors are lenient and the tax rate small, or where he can in advance make satisfactory arrangements with the assessors. A few days ago, for the purposes of this inquiry, a rich owner of stock in foreign corporations who lived in a small town in this State was asked if he was assessed on one one-hundredth of his taxable personal property. He answered, "On a little more than a hundredth." To the next question, "What would you do if taxed on it all?" he replied, "I should leave the State." The great Weld estate was driven from Massachusetts to Pennsylvania by our tax laws, and other specific cases of leaving the State for the same reason are so frequent that there is every reason to suppose we are losing a vast amount that might otherwise come, and driving away a good deal that is already here, by insisting upon an unjust law of double taxation.

That business may be driven away by taxation is shown by the well-known case of the cloth manufacturers in the Southwest of England who, in 1840, were driven away by a local tax, and went to Yorkshire, where no such tax was imposed. A subsequent repeal of the tax in the southwestern towns could not bring the business back. (Seligman, Gen. Prop. Tax, p. 55.) Another instance can be furnished still nearer home. The East India trade was started by the enterprise of Boston merchants. The ships used to come here, and the goods were sold at auction in Boston, and carried all over the country. It was thought

a wise thing to impose a tax on these goods, temporarily here. The result was the ships were ordered to go to New York, instead of Boston. The business became settled in New York, and though the Massachusetts tax was afterwards repealed, the business never came back.

NOT A TAX CHIEFLY ON THE RICH.

It has been argued that, though a double tax, it touches the rich only, and so should be maintained. The argument that the rich ought to be doubly taxed, though communistic, is intelligible. To double tax the rich, however, *all* kinds of property, whether real estate, shares in home corporations, bonds or what not, ought to be doubly taxed when owned by one person in an amount over a fixed sum, *while all amounts under that sum ought to be taxed but once.* A law taxing all persons once for property up to $50,000, and twice on the excess, would be at least equal on all persons of equal wealth. By the present law, however, the widow or orphan owning two or three thousand dollars in foreign stock is taxed twice, while a millionnaire, owning other kinds of property, is taxed but once. As to stocks in foreign corporations, they are usually discovered when belonging to the widows and orphans through the probate court records, but the rich owners of them largely escape taxation. The truth is, we put a double tax on a kind of property which is easily concealed from the assessors, and we collect this tax chiefly from the owners of small amounts.

RESULTS OF THE PROPOSED CHANGE.

By the proposed change there will be a diminution in the amount of assessed personal property, and it is important to consider how much that diminution will be. Let us first suppose that the diminution will be equal to the *whole* amount of the shares in foreign corporations *as estimated* by the assessors, though this is nearly five times the value of such shares as specifically ascertained. In Boston, in 1891, the estimated value of such shares was $37,400,000, nearly. The total valuation of taxable prop-

erty of Boston for the same year, including the Massachusetts national bank and corporation stock, turned over by the state to the city, is $911,600,000 and over, or more than twenty-four times the assessed value of foreign stocks. (Report of Assessing Department, 1891, pp. 8 and 14.) To make up for the loss on this basis, about 55 cents on $1,000 would have to be added to the city's rate. Last year, 1891, the rate was $12.60. This would bring it then to $13.15. In 1890 the rate was $13.30; in 1888, $13.40; in 1887, $13.40. In 1884 the rate was $17.00, and for four years previous higher than this change would make it. But so far as Boston goes there is no objection. It is believed that the small increase of tax will be more than made up for by an increase in business. The Boston Executive Business Association, made up from every branch of business in the city, sends a deputation desiring this change. The city of Boston appointed a special commission, composed of Hon. George G. Crocker, Hon. Jonathan A. Lane, and William Minot, Jr., and they made a valuable report unanimously favoring the proposed change. The Citizens' Association of Boston, through its president, Mr. Herbert L. Harding, asks for it. Beside that, large real-estate owners, some of the largest in the city, have come before the Committees on Taxation and Mercantile Affairs and favored the proposed exemption as in the end advantageous to business prosperity of the city and State.

The supposition that 55 cents is to be added to the rate of the city of Boston by the proposed change is based on the calculation that $37,000,000 of the $204,000,000 of assessed personal property consists of shares in foreign corporations. Of this $204,000,000, only $54,000,000 consist of personal property which the assessors actually knew about. The other $150,000,000 are guessed at in lump sums under the dooming process. Of this $54,000,000 definitely known about, $7,800,000 consist of shares in foreign corporations. Out of the $150,000,000 guessed at, it is *estimated* that nearly $30,000,000 are also such shares. It by no means follows that the $150,000,000 of

the doomed assessment on personal property will be reduced by anything like the sum of $30,000,000. The total assessment of personal property is but a fraction of all that is taxable, and, beyond doubt, is less than the total would be after deducting the shares of foreign corporations. The year before mortgages on real estate were relieved from double taxation; they were estimated to constitute $62,500,000 of the assessed value of the personal property of the state (Aggregates Polls, etc., 1881, p. 28), while the actual loss turned out to be only $3,500,000. (Aggregates of Polls, etc., 1891, p. 58.)

In all probability, therefore, if Boston next year has to raise the same amount as last year, the increase in the rate per thousand dollars would be, not 55 cents, but only 12½ cents, making the rate $12.72 instead of $12.60. This would still be far below the average rate for the past twenty years. Even this may be too large an allowance, because, by removing an unfair double tax, we remove an excuse for evading taxes, and we cease to keep away rich persons, who, but for our present system, would come here to live.

RESULTS IN OTHER CITIES AND LARGE TOWNS.

The total valuation of assessed estate in the Commonwealth is $2,245,000,000,* and of this, $70,000,000† is the estimated value of shares in corporations as assessed for taxes. This is about $\frac{1}{32}$, or $3\frac{1}{10}$ per cent of the whole. Therefore, $\frac{1}{31}$ would have to be added to the rate. That, however, is probably too high, for the same reasons as stated in considering the case of Boston. The real loss to the assessed personal estate would probably be nearer $15,000,000, which would make a difference of $\frac{1}{128}$, or $\frac{8}{10}$ of 1 per cent in the rate. This is equal to an addition of 12 cents in a rate of $15 on a thousand.

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* Aggregates of Polls, etc., for 1891, p. 60.

† Aggregates of Polls, etc., for 1889, p. 63.

RESULTS TO THE FARMER.

The question as to how the proposed change would affect the farmer is a most important one.

In the majority of the strictly farming towns there are no assessed shares in foreign corporations, or else only a nominal amount of them. There are several farming towns, however, which have become summer resorts, where a great deal of this foreign stock is assessed. In such towns the farmers have an unfair advantage over the farmers in the neighboring towns. They have less tax to pay, and so can undersell the others. For example, let us take two towns both originally farming towns. One has become a favorite resort, where several rich men from the city reside on the first of May. Water is introduced. The assessed personal property is nearly double the real estate in value, so the tax rate is only $5.16. The other town has no stock in foreign corporations, and only about one quarter as much assessed personal as real estate, and the rate is $14.00. This is not fair. If such a tax is insisted upon, the proceeds of it ought to be divided proportionally among the cities and towns of the State, so as to produce equality of conditions.

In many towns where there is even a considerable amount of stock in foreign corporations, as returned by the assessors, there would be no reduction in the total assessment. The few rich men to whom this stock is accredited are assessed in bulk under the dooming process, and for far less than they are really liable. If the foreign stock were relieved from taxation, the same amount of assessment could, in many instances, be made against these rich men as before, without being in excess of the real amount for which they would be liable, or without driving them out of the town. Any one acquainted with the practical experience of the small towns of this State, with one, two, or three rich men from the city, will recognize the picture at once and acknowledge the strength of the argument.

What would be the result in the strictly farming town

where there is no foreign stock? At first glance the change would appear to make no difference in such a town. That would be true as applied to the tax raised for local purposes, but part of the tax is for State purposes, and is paid to the State treasurer by the town. On the average it is $\frac{1}{21}$* of the taxes that have to be raised in the cities and towns. As to this $\frac{1}{21}$ it would have to be larger to make up for the general loss in the State. The general loss in the State is, as we have seen (p. 22, *ante*), $\frac{1}{31}$ at the outside, and probably not more than $\frac{1}{127}$ of the whole. The effect, therefore, on the tax in the town would be to add $\frac{1}{31}$ of $\frac{1}{21} = \frac{1}{651}$, or less than $\frac{1}{6}$ of one per cent at the most, and very likely only $\frac{1}{127}$ of $\frac{1}{21} = \frac{1}{2667}$, or $\frac{1}{26}$ of one per cent. That is, a farmer who now pays six dollars as his tax, would have to pay one cent more, or $6.01 at the most, and very likely less than $\frac{1}{4}$ of a cent more. Let us take, for example, the town of Brimfield, Hampton County. Its population in 1885 was 1,137. From the number of cows it is apparently a farming town. There are no shares of foreign corporations as returned by the assessors in the last State report. The valuation that year was $454,860, or nearly half a million. The total tax for all purposes was $7,900, and the rate $16.00 on a thousand. The tax paid to the State was $437.50. Of this the $\frac{1}{31}$, which would have to be added to make up the deficiency, would be $14.11. This, on the tax of $7,900, would be an addition of about one cent on a tax of $6.00. Before long the State tax collected from the towns and cities may cease altogether, and in this case the change of the law here proposed would make absolutely no difference at all. Let us suppose, however, that the difference would be one cent in $6.00, or $14.11, to such a town as Brimfield. One summer boarder for two weeks would make up the whole difference to the town, and if by the change a single wealthy

* Whole tax in the Commonwealth for State, county, city, and town purposes was in 1891, $32,242,721. (Aggregate of Polls, etc., for 1891, p. 60.) The amount of State tax is $1,500,000. (State Auditor's Report, 1891, p. 26.) This is $\frac{1}{21}$ of the whole.

man could be brought into the neighborhood, who would not otherwise have come, the difference would be made up many times over. This one cent in six dollars is an investment well worth making.

Farming in Massachusetts has changed. The soil of the State is poor in comparison to that of New York, Ohio, Illinois, and the states farther west. The farmer in this State can no longer raise corn and wheat in competition with the West. His only chance of a living is supplying summer boarders or neighboring cities with milk and fresh vegetables and the like, or in raising hay, which is expensive to bring from a distance. Every rich man, therefore, who is induced to come to this State is just so much gain to the farmer, and every such man who is kept away or driven away is the farmer's loss. It is to the advantage of the farmer that the capitalists in the State should be able to make good investments and spend the additional income here. It is only additional personal property in the neighborhood that can increase the value of farms, as of other real estate.

IN GENERAL.

There are no mines of coal, oil, or metals in this State. Its recent great increase in wealth has come almost wholly from large investments out of the State, and from the business that this has brought to those who are here. The great Exchange Building and the Ames Building in Boston were both built from the earnings of investments in foreign corporations. We are behind many of the other States in natural resources, and it is only by the thrift, good sense, education, and profitable investments of our inhabitants that we can keep up with the others. In respect to our law on the taxation of stock in foreign corporations, we are behind the European countries and most of the other States of the Union. The States of Maine, Rhode Island, Connecticut, New York, New Jersey, etc., which do not

tax stock in foreign corporations, have not suffered, but have gained wonderfully and are our competitors. Shall we keep behind the times, like the British Provinces, or shall we keep abreast of the other States and countries of the world?

There is one principle of taxation recognized by all authorities, but perhaps never better stated than by Mr. Enoch Ensley of Tennessee, who said, "*Never tax anything that would be of value to your State that would and could run away or that could and would come to you.*" On March 19, 1892, Mr. M. E. Ingalls, the leading business lawyer of Cincinnati, in an addrees before the Commercial Club of that city, said (p. 14 of the address): "New York, which practically does not tax personal property, shows a gain of 55 per cent in her (general) valuation (from 1880 to 1890); Philadelphia, where all personal property is absolutely exempt from city tax, shows a gain of 67 per cent; Chicago and St. Louis, which practically exempt personal property, show gains of 86 per cent and 49 per cent; while Boston, which has a system of assessing personal property and 'dooming' tax-payers until in despair they make returns, shows a gain of only 34 per cent; and your own city (Cincinnati), which attempts to tax and *double* tax everything, the paltry increase in ten years of 5 per cent."

EFFORTS TO ENFORCE OUR PRESENT LAW.

A petition is before the Legislature to compel foreign corporations doing business in the State to file with the Tax Commissioner lists of shareholders. The motive is to ascertain those shareholders who are residents within the State, with the object of assessing them for taxation. The argument in favor of this is that our law makes such shares taxable, that the great bulk of resident shareholders escape taxation, that the tax laws ought to be enforced, and that this is a way of enforcing a part of them.

ALL METHODS OF ENFORCING TAXES NOT EXPEDIENT.

Admitting that the law taxing stock in foreign corporations is not enforced, and that as long as such a law exists it ought to be carried out, it must first be remarked that all ways of enforcing even the best laws are not judicious. What methods of enforcing laws are best to be adopted is a question largely of expediency. For example, by law and by reason, men ought to pay their just debts. In order to enforce the payment of debts, debtors who did not pay used to be imprisoned without any poor debtor law or bankrupt law for their relief. This method of enforcing the law was no doubt effective, but all civilized nations have agreed in abandoning such a method as inexpedient and unwise.

SUCH A METHOD WILL FAIL OF ITS OBJECT.

Even supposing, for the moment, that the law taxing shares of foreign corporations owned by the inhabitants of this State is just, let us see whether the proposed method of enforcing it is wise and expedient.

The proposed plan will not be effective. Nothing is easier than to evade such a law. Corporations having offices in this State might all file lists of shareholders as appears by their registers, and yet the assessors may be as far as ever from knowing who the resident shareholders really are. Registration of shares is not necessary in order to secure the legal title to them. A transfer, either in person or in blank, though unregistered, gives a perfect title to the proper holder. Indeed, a great many shares pass from person to person, and remain long times without being registered in the names of their real owners in the ordinary course of business. The registration offices are closed for long periods each year, and yet the stock is continually changing hands. Indeed, the registration books of many large corporations give no indication of all the shareholders at any one time. All that is needed then for Massachusetts shareholders to escape identification is, that they hold their shares with

the transfer executed on the back, but remaining registered in the name of some former holder, or registered in the name of a non-resident stock broker, for example, or of some man of straw in the State. By holding a power to collect dividends, to secure all rights of subscriptions of stock, and to vote at meetings, all the advantages of registered stockholders will be secured. If the law should be altered, so as to require registration, in order to give title, which, by the way, would be an intolerable hindrance to business, citizens of this State could have their stock held for them by non-resident agents or attorneys. Again, by registering in their own name, with an address different from their legal domicile, many could escape the assessors. For example, it would be very easy to give the address of a New York banker, who would gladly receive all dividends on deposit or forward them to order. In these and other simple ways would the shareholders still escape taxation.

It may be that a few of the shares, held in small lots by persons inexperienced in business ways, will be got at; but the holders of large amounts, the shrewd business men, will escape, and thus the law will work practical inequality of the most galling kind. Those whom it is most intended to reach will not be touched, while it will fall most heavily on the conscientious and the inexperienced and the small holders.

Three years ago, two years ago, and even last year some of the tax assessors came before the legislative committees asking for the passage of such a law. They were met by arguments so convincing that this year they did not put in an appearance. They *know* the law would be ineffective.

IF IT WERE EFFECTIVE IT WOULD DRIVE SOME STOCKHOLDERS OUT OF THE STATE, AND PREVENT OTHERS FROM COMING IN.

If such a law could be made effective, it would be injurious. Under our present law, enforced as little as it is, stockholders in foreign corporations have actually left the State on account of the tax, and others thinking of

coming here have been prevented from doing so by the chance of being doubly taxed. (See pp. 18–20 and 25, *ante*.) How much more would this be the case if the *chance* were made a *certainty!*

IT WOULD DRIVE SOME OF THE LARGEST CORPORATIONS OUT OF THE STATE, TO OUR GREAT LOSS.

If the law could be made effective, so far as those foreign corporations go which have offices in Massachusetts, it would only be necessary for such a corporation to leave the State in order that the law would have no effect on its shareholders. Those foreign corporations, whose business interests kept them here, would probably still remain, even if the law would thereby reach its shareholders; but many of our richest foreign corporations have no *business* reason for staying here. Their offices are here largely as a matter of sentiment and local pride. The great Western railroads, like the Chicago, Burlington & Quincy, the Atchison, Topeka & Santa Fé, the Union Pacific, etc., have no business reason for being in Boston. These roads are all situated and managed out West. The great traffic arrangements are made mostly in New York, and New York is the great money centre at which money has to be borrowed. The Boston directors have to go to New York and out West frequently as it is, and some of the directors are now in New York and have to come to Boston to the meetings. It would be very little more trouble for the Boston directors to go to New York on business or to reside there a large part of the year. Indeed, there are many reasons for moving to New York, at any rate. For example, the Baltimore & Ohio Railroad, owned mostly in Baltimore, is seriously considering moving its offices to New York, not for any reasons connected with taxation, but merely for business convenience. The president of the Amoskeag Mills, with a capital of $4,000,000, tells the Committee on Mercantile Affairs that ninety per cent of the sales are made in New York City, and the mills are situated in New Hampshire. The president of the Tam-

arack and other mining companies, representing several millions, tells the same committee that all the sales of copper from his mines are made in New York, and all the rest of the business is in Michigan. The attorney for the Calumet & Hekla Copper Company makes a somewhat similar statement.

If, by the proposed law, the shareholders of such foreign corporations are made to pay a second tax in Massachusetts, they may well ask their directors why they do not move their offices to other States, with fairer laws. What answer could the directors give? What reason could they assign for staying?

If they did leave the State, as they say they should have to do, they would thereby lessen the demand for many of the most valuable offices in Boston, rents would go down, many clerks would be out of employment here or would leave the State and vacate their present houses, and *enormous deposits would be withdrawn from the Boston banks.* The Amoskeag Mills alone deposits in the Boston banks about $8,000,000 a year. Of these deposits only about one twentieth is made up of dividends which would come to Boston, whether or no. The other nineteen twentieths would go to the banks in the city to which the offices were moved. The Tamarack set of mining companies alone deposits $8,000,000 a year, of which less than one qaurter would be in the Boston banks if the offices were not here. Add to these the deposits of the Calumet & Hecla and the great Western railroads with their offices in Boston, and the other 1890* foreign corporations with places of business in the State, and it is no wonder that the Association of Boston Bank Presidents voted against the proposed method of enforcing the tax, and presented its vote to the committee having the bill in charge. Besides this loss of deposit, it is a serious question whether the dividends sent here would not become less. Massachusetts stockholders like to invest their money where they can keep an eye on it.

RICHARD H. DANA, *Att'y.*

*Rep. Tax Com. 1891, p. 12.

EXTRACTS FROM ARGUMENT OF EX-GOV. LONG,

MADE AT A HEARING ON MARCH 29, 1892, BEFORE THE COMMITTEE OF TAXATION OF THE MASSACHUSETTS LEGISLATURE.

. . . We lawyers sometimes go into cases where we are searching for the truth, hoping to find it on the side of our clients. This is one of those cases where you go into the case with a conviction, clear from the first, that the case is right; and the ground on which I put the argument for the passage of this bill is simply that it is right. If I were a member of the Legislature, I would vote for it. If I were a member of the Legislature, I would endeavor to carry it through, believing that thereby I should meet the great public interest. I was a member of the Legislature when we passed the bill relieving mortgages from double taxation. . . .

. . . The present law is an unconstitutional law. The Constitution of the Commonwealth says that taxes shall be laid upon the inhabitants of, and persons resident and estates lying within the Commonwealth, and on goods, wares, merchandise, and commodities brought in or being in the State. Personal property which is without the State is not within it, and, therefore, under the law, is not taxable within the State. The property of foreign corporations is not within the State, and, therefore, not taxable within the State. The only way in which we can say it is within the State is, that it follows the person. But it does not. It is not here. If it followed the person, then, as Mr. Lane very well says, you are not justified in taxing the Washington Mills in Lawrence, if the stockholders reside in New York. And yet, you do tax it in Lawrence and are justified in so doing, because the property that is in Lawrence does not go to New York, even although the owner lives there. . . .

. . . The burden has fallen, so far as it has fallen at all, not upon large owners of shares in foreign corporations, for they have evaded and escaped it. It has fallen upon women and children and men of small means, who have not had the shrewdness to escape it. But at last the matter is becoming, in the general progress of reform, one of such public interest, that it is called to the attention of the Legislature, and I think it is the duty of the Legislature to rectify the evil at once. . . .

. . . Here you have a pure, simple case of double taxation. It is infinitely clearer than the case was when we had the question of exempting mortgages from double taxation. There, there was a good deal of argument on either side, skilful, shrewd argument; but I take it that no argument is necessary to show that when you tax shares in a foreign corporation, or property in another State owned by residents of Massachusetts, it is pure and simple double taxation. Suppose I own a horse in Maine; he is taxed there because he is there; he is taxed to me here, because I am here. That is a double tax; and yet you authorize it. Repeal such an outrage as that. Have the courage and manliness at once to report to the Legislature what ought to be done, and to ask the Legislature to do it. Suppose I own a share of stock in the Chicago, Burlington & Quincy Railroad; it lies in the State of Illinois; its property consists of its track, its franchise, its buildings, its cars. They are all taxed there. If you tax me on my share, you are taxing me here also on the same property. It is a pure, simple case of double taxation. It differs in no respect from the perfectly logical and sharp way in which Mr. Minot put it in regard to real estate. Suppose I own a block of stores in New York City. I have a deed of that real estate, just exactly as I have a certificate of stock, which is, like a deed, merely a certificate that I own a share of stock in the Chicago, Burlington & Quincy Railroad. You do not think of taxing me on the $50,000 building which I own in New York, because I have a deed of it; and yet you may, with just as much justice. You cannot escape the wrong, the injustice, the unfairness of the thing. . . .

. . . Well, now, where the wrong is so manifest, let us cure it. What will be the result? Why, the first result is the result that every legislator ought to think of, that you are doing right. Reverse the process. Suppose the horse which down in Maine under the present laws was not taxable to me here, being taxed in Maine. Suppose my shares in the Chicago, Burlington & Quincy Railroad were not taxable to me here, inasmuch as the property is taxed there, would you for one moment think, if the question arose now for the first time, of passing a law which should put upon me a tax upon that property when a tax is already paid in those States? Is it not enormous? Is it not wrong? Is it not unjust? Of course it is.

Secondly, the result is that you would bring about a system of equality throughout this State. . . .